
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HAROLD VINCENT ROBINSON

Defendant.

**MEMORANDUM DECISION AND
ORDER**

Case No. 2:01CR267DAK

Judge Dale A. Kimball

This matter is before the court on Defendant Harold Vincent Robinson’s Petition for Writ of Coram Nobis. The court requested that the United States file a response to Defendant’s Petition for Writ of Coram Nobis. The United States filed a response. The court considers the Petition fully briefed.

A Petition for Writ of Coram Nobis is an extraordinary remedy that is rarely necessary. The United States Supreme Court has recognized: “As we noted a few years after enactment of the Federal Rules of Criminal Procedure, ‘it is difficult to conceive of a situation in a federal criminal case today where [a writ of coram nobis] would be necessary or appropriate.’” *Carlisle v. United States*, 517 U.S. 416, 429 (1996) (quoting *Untied States v. Smith*, 331 U.S. 469, 475 n.4 (1947)).

Three prerequisites must be met before a writ of coram nobis can be granted. *United States v. Morgan*, 346 U.S. 502, 511 (1984). Defendant must demonstrate that he “exercised due

diligence” in bringing his claim, that “other remedies and forms of relief are unavailable or inadequate,” and that failure to remedy the error alleged would result in a miscarriage of justice. *Embrey v. United States*, 240 Fed. Appx. 791, 2007 WL 1969688, *2-3 (10th Cir. 2007) (unpublished).

Defendant cannot meet any of these prerequisites. Defendant claims that his counsel failed to bring a motion to suppress and coerced him into entering a guilty plea. However, Defendant never appealed or sought post-conviction relief after his initial sentence even though both avenues would have been available to him. Defendant’s failure to exhaust these remedies prohibits him from now seeking a writ of coram nobis.

For these reasons and the reasons asserted in the United States’ opposition, Defendant’s Petition for Writ of Coram Nobis is DENIED.

DATED this 18th day of August, 2014.

BY THE COURT:

A handwritten signature in black ink, reading "Dale A. Kimball". The signature is written in a cursive, flowing style. The first name "Dale" is written in a larger, more prominent script, followed by "A." and "Kimball". The signature is positioned above a horizontal line.

DALE A. KIMBALL
United States District Judge